

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION,	:	
	:	
Plaintiff,	:	No. 10 Civ. 9239 (JSR) (FM)
	:	
v.	:	
	:	
VITESSE SEMICONDUCTOR CORP., ET AL.,	:	
	:	
Defendants.	:	
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**SUPPLEMENTAL DECLARATION OF DAN MARMALEFSKY IN SUPPORT OF  
DEFENDANTS' CROSS-MOTION TO COMPEL PRODUCTION OF INTERVIEW  
NOTES FROM NU HORIZONS' INTERNAL INVESTIGATION  
AND IN OPPOSITION TO CROSS-MOTION TO QUASH**

I, DAN MARMALEFSKY, declare:

1. I am a partner at Morrison & Foerster LLP, counsel of record for Defendant Louis R. Tomasetta in this action, and have been admitted *pro hac vice* to the Bar of this Court. I make this Declaration of my personal knowledge and, if called as a witness, could and would competently testify to the facts stated herein.

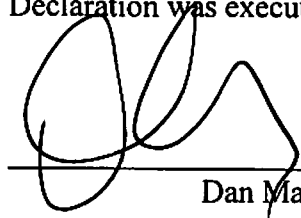
2. I make this supplemental declaration in support of Defendant Louis R. Tomasetta and Eugene F. Hovanec's Cross-Motion to Compel Production of Interview Notes from Nu Horizons' Internal Investigation and in opposition to the cross-motion to quash filed by Nu Horizons.

3. Following the filing of the complaint in this matter, the SEC produced transcripts of testimony taken during its investigation. The SEC represented that it produced the transcripts

of all depositions taken during its investigation. Included in the production were transcripts of testimony by the following Nu Horizons-affiliated witnesses:

David Bowers	June 10, 2008 and June 29, 2009;
Paul Durando	July 31, 2008
Nancy Lieberman	July 10, 2009.
Arthur Nadata	June 20, 2008
Adam Wisniewski	June 17, 2008 and June 23, 2008

I declare under penalty of perjury that the foregoing is true and correct, and that this Declaration was executed at Los Angeles, California on April 22, 2011.

  
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Dan Marmalefsky